



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

UTAH DEPARTMENT OF COMMERCE

Division of Public Utilities

MARGARET W. BUSSE
Executive Director

CHRIS PARKER
Division Director

Supplemental Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director
Brenda Salter, Assistant Director
Abdinasir Abdulle, Utility Technical Consultant Supervisor
Shauna Benvegnu-Springer, Utility Technical Consultant
Tamra Dayley, Utility Analyst

Date: January 30, 2024

Re: **Docket No. 23-010-01**, Highlands Water Company, Inc.'s Updated Cover Letter to Request to Update its Service Area

Recommendation (Approve)

The Division of Public Utilities (“Division” or “DPU”) provides additional documentation and clarification to support its position to have the Public Service Commission of Utah (“Commission” or “PSC”) approve the current updated service area and the expanded service area for Highlands Water Company, Inc., (“Company” or “Highlands”) as requested.

Issue

On January 16, 2024, the Commission issued a Supplemental Action Request requesting the Division provide evidence supporting the Division’s comments filed on October 17, 2023, concerning the following:

“1. Regarding paragraph numbered 1 in the Comments, DPU states it has received evidence concerning the ‘[a]ssurance that [Highlands] has received or is in the process of obtaining the required consent, franchise, or permit ... in order to extend service into the previously granted service area.’

Division of Public Utilities

Heber M. Wells Building • 160 East 300 South • P.O. Box 146751 Salt Lake City, UT 84114-6741
www.dpu.utah.gov • telephone (801) 530-7622 • toll-free in Utah (877) 874-0904 • fax (801) 530-6512

Please identify the evidence DPU received concerning this assurance. If it is in written form, please provide it to the PSC.

2. Further regarding paragraph numbered 1, please specifically identify the ‘previously granted service area[]’ (whether by map, written description, or otherwise) to which DPU is referring in the preceding paragraph (i.e., what specifically is that area?).

3. Regarding paragraph number 2, DPU states, ‘Highlands has provided a current map showing the water service infrastructure of [1] all water utilities surrounding the applicant and [2] a map of the future expansion areas.’ The Comments further state that ‘[t]hese maps were provided to the PSC with’ the Original Request filing and cites certain attachments.

The PSC has no record of receiving a ‘current map showing the water service infrastructure of all water utilities surrounding’ Highlands. However, according to DPU’s Comments, it ‘received evidence of’ such a map. Please provide the PSC with that specific map.

4. Regarding paragraph number 3, DPU states, ‘Highlands concurs with the statement that any proposed line, plant, or system will not conflict ...’

Please identify how Highlands conveyed this concurrence to DPU. If it is in written form, please provide it to the PSC.

Additionally, on December 28, 2023, Highlands submitted to the PSC an email and an attached cover letter. The cover letter appears to be an update of the Original Request (the ‘New Request’). The email explains, among other things, that the Original Request was filed in haste, was still in draft form when filed, had the potential for confusion, and asks the PSC to ‘consider this [New Request] which more clearly represents [Highlands’] purpose.’ While the attachment to the email – the New Request – is substantially similar to the Original Request, it makes certain additions and various changes, all of which are, as represented in

the email, highlighted in yellow in the New Request. Please review the New Request and make recommendations.”¹

Discussion

Response to 1.

In September and October 2023, the Division held discussions with the Company where the Company described the process of receiving the required consent, franchise, or permit from Morgan County at great length. In short, a developer must provide Morgan County with a “Letter of Intent to Serve” from the water provider. For a water provider to do so, the developer must provide a master plan with given locations of the proposed platted land to the provider, and the water provider must produce a water proposal. The developer accepts or rejects the proposal. If accepted, a Letter of Intent to Serve is provided to the developer for Morgan County to plat/record and provide building permits. Water proposals are generally valid for a year after submission. Labeled as **DPU Exhibit A** are Lee’s Marketplace communication emails and **DPU Exhibit B** is the water proposal for Lee’s Marketplace/Mountain Green Project, demonstrating that the Company was in the process of providing a Letter of Intent to Serve.

Response to 2.

The Lee’s Marketplace/Mountain Green Project was formerly known as the “Wagon Wheel,” referred to in **DPU Exhibit C**, titled PSC Report & Order dated February 25, 1976, Case No. 5572 Sub 2 and Sub 4. The document provides detailed parcel descriptions of this area and other nearby land parcels.

Response to 3.

The map in question was provided in the Company’s September 20, 2023, application as Attachment #2 (**DPU Exhibit D**). This map is of all the certified fixed public water utilities supplied by the Company. Attachments #3 (**DPU Exhibit E**) and #3a (**DPU Exhibit F**) are

¹ PSC, Supplemental Action Request, January 16, 2024.

the proposed near-future service areas. All other water utilities in the area are exempt from certification or are mutual water utilities.

Response to 4.

This was conveyed during DPU staff discussions via phone calls regarding the Company's proposed filing date of September 20, 2023. The Company did not officially document this. On January 19, 2024, the Company provided a statement documenting its service area and that it does not encroach on other systems. The Company describes where Cottonwood Mutual Water Company installed utility infrastructure crossing the Company's existing utilities. See attachment **DPU Exhibit G**.

After reviewing the Company's revised Cover Letter submitted on December 28, 2023, and the January 19, 2024, statement, the intent and recommendations the Division submitted to the Commission on October 17, 2023, do not change. The new cover letter clarifies the original request of September 20, 2023.

Conclusion

The Division recommends the Commission approve the Company's request to update its service area.

cc: Marjalee Smith, President, Highlands Water Company
Patricia Schmid, Assistant Attorney General, State of Utah